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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/245,596	02/05/1999	DARRELL J. KUTCHMAREK	SPRINGS3.0-0	5065

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EXAMINER

CHOI, STEPHEN

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 12/01/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/245,596

Applicant(s)

KUTCHMAREK ET AL.

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 40-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The request filed on 10/03/2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/245,596 is acceptable and a CPA has been established. An action on the CPA follows.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 43, 50, 53-54, and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 43 and 53-54 are indefinite in that it is not clear how the structure of slats is related to the claimed apparatus.

In claims 50 and 59, it is not clear what structure is inferred by "the massive portion of said cutting blade does not engage ...".

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 40-48, and 52-57, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (US 276,265) in view of Sands et al. (US 5,339,716).

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Meyer discloses the invention substantially as claimed except for a clamping assembly including a clamping block, and a guide mandrel. Sands discloses an anvil (44) disposed in head receiving area (26) and a clamp assembly (52) including a clamp bar (66). Given the teachings of Sands, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clamping assembly and a guide mandrel on Meyer's device in order to secure the workpiece in place to prevent twisting during a cutting process. With respect to claim 45, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a backup made of nylon, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

6. Claims 49-50, and 58-59, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (US 276,265) in view of Sands et al. (US 5,339,716) as applied to claims 40 and 52, and further in view of Walker (US 245,330).

Meyer and Sands disclose the invention substantially as claimed except for the cutting blade including a pocketed portion and a massive portion. Walker discloses a knife (C) having a pocketed portion and a massive portion wherein the cutting edge is confined entirely with the pocketed portion (see Figure 1). Given the teachings of Walker, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a cutting blade with a massive portion surrounding a pocketed portion having a cutting edge on the modified device of Meyer in order to provide the strength and durability of the cutting blade.

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7. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (US 276,265) in view of Sands et al. (US 5,339,716) as applied to claim 40 above, and further in view of Yannazzone (US 5,103,702).

Meyer and Sands disclose the invention substantially as claimed except for a measuring assembly and a stop block. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring assembly on the modified device of Meyer since the examiner takes official notice of the use of measuring assembly as old and well known in the art for the purpose of measuring a portion of the workpiece to be cut. Furthermore, Yannazzone teaches that the stop (32) being removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. Given the teachings of Yannazzone, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop on the modified device of Meyer in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Donnell and Dobbins are cited to show cutting blades with a massive portion and a pocketed portion.

9. Any inquiry concerning the content of this communication or earlier communications from the examiner should be directed to S. Choi whose telephone

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number is (703) 306-4523. The examiner can normally be reached on Monday through Friday from 9:30 AM to 3:30 PM. Any inquiries concerning other than the content of this and previous communications, such as missing references or filed papers not acknowledged, should be directed to the Customer Service Representative, Tech Center 3700, (703) 306-5648.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082. The fax phone number for this Group is (703) 305-3579.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Choi of Art Unit 3724 at the top of your cover sheet.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

sc  
November 14, 2001



KENNETH E. PETERSON  
PRIMARY EXAMINER